

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

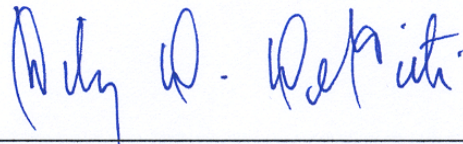
MARK ALAN HUBBLE,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-12-682-D
)	
AMERICAN EXPRESS BANK, FSB and)	
TIMOTHY A. FISHER,)	
)	
Defendants.)	

ORDER OF DISMISSAL

Before for the Court is Plaintiff's Motion to Dismiss With Prejudice [Doc. No. 4]. Plaintiff, who appears *pro se*, moves to dismiss his case based on a settlement with the remaining defendant, American Express Bank, FSB.¹ A motion is unnecessary because Plaintiff may voluntarily dismiss his case at this point. *See* Fed. R. Civ. P. 41(a)(1)(A)(i). No defendant has yet appeared in the case; the record reflects no issuance of a summons. Accordingly, the Court finds that Plaintiff's filing was effective to dismiss his action without a court order. *See Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003) (a filing pursuant to Rule 41(a)(1) closes the case; "no action is required on the part of the court"); *see also Netwig v. Georgia Pacific Corp.*, 375 F.3d 1009, 1010 (10th Cir. 2004) (dismissal was effective on date of the Rule 41(a)(1) filing).

IT IS THEREFORE ORDERED that this action is DISMISSED WITH PREJUDICE to refiling.

Entered this 24th day of August, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹ Shortly after filing the Complaint, Plaintiff voluntarily dismissed Defendant Timothy Fisher.